



**Department of Energy**  
Savannah River Operations Office  
P.O. Box A  
Aiken, South Carolina 29802

OCT 02 2019

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Martin Pheiffer  
Muck Rock  
Dept. MR 67093  
411A Highland Ave  
Somerville, MA 02144

Dear Mr. Pheiffer:

SUBJECT: Freedom of Information Act (FOIA) Request Savannah River Operations Office  
SRO-2019-01108-F

This letter constitutes our final response to the request for information that you made to the Department of Energy under the Freedom of Information Act for copies of 1) DOE's current procedures (or guidance) to process FOIA requests; review them for classified material; and redact info through application of FOIA exemption categories. 2) Any memos associated with the current guidance that discuss the procedures or discuss any concerns associated with the processing of FOIA requests, the identification of classified material, and the application of exemptions. 3) Any internal reports on the handling of FOIA requests, identification of classified info, and application of exemptions in the agency produced in the last two years, such as annual reports.

The Department of Energy, Savannah River (DOE-SR) processes its FOIA requests in accordance with 5 U.S. Code § 552 (attached). In the event that a classification review is necessary, it is processed in accordance with Attachment 7 of DOE Order 475.2B, Identifying Classified Information by a classification officer outside of the office that handles FOIA requests. We have also attached a report of all the FOIA requests DOE-SR has processed from February 15, 2017 through September 30, 2019, with the exemptions used, if any.

If you wish to challenge the adequacy of the search, you must submit a written appeal within 90 calendar days after receipt of this letter denying in part and granting in part the requested information. Written appeals should be submitted to the Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW, L'Enfant Plaza Building, Washington, DC 20585, under 10 CFR § 1004.8, which sets forth the required elements of such appeals. Thereafter, judicial review will be available within the district in which a requester resides, has a principal place of business, in the place in which the records are situated, or in the District of Columbia. You may also submit your appeal by e-mail to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Privacy Act Appeal" in the subject line.

You may contact me, the DOE Savannah River Operations Office's (SR's) FOIA Public Liaison, at (803) 952-7618 or by mail at PO Box A, Aiken, SC, 29802 for any further assistance or to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS,

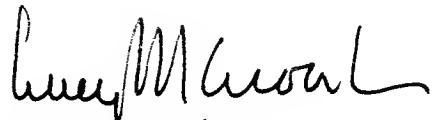
Mr. Pheiffer

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College Park, Maryland 20740-6001, email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

As Chief Counsel, DOE-SR, I am the authorizing and denying official for the documents responsive to your request. If you have any questions, please contact Ms. Jennifer Farmer at (803) 952-7813 or [jennifer.farmer@srs.gov](mailto:jennifer.farmer@srs.gov).

Sincerely,



Lucy M. Knowles  
Authorizing Official

OCC: LMK:anv

## HISTORICAL AND REVISION NOTES—CONTINUED

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(2)–(13) ....	5 U.S.C. 1001 (less (a)).	Mar. 30, 1948, ch. 161, §301. 62 Stat. 99. June 11, 1946, ch. 324, §2 (less (a)), 60 Stat. 237.

In paragraph (1), the sentence "Nothing in this Act shall be construed to repeal delegations of authority as provided by law." is omitted as surplusage since there is nothing in the Act which could reasonably be so construed.

In paragraph (1)(G), the words "or naval" are omitted as included in "military".

In paragraph (1)(H), the words "functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947" are omitted as excused. Reference to the "Selective Training and Service Act of 1940" is omitted as that Act expired Mar. 31, 1947. Reference to the "Sugar Control Extension Act of 1947" is omitted as that Act expired on Mar. 31, 1948. References to the "Housing and Rent Act of 1947, as amended" and the "Veterans Emergency Housing Act of 1946" have been consolidated as they are related. The reference to former section 1641(b)(2) of title 50, appendix, is retained notwithstanding its repeal by §111(a)(1) of the Act of Sept. 21, 1961, Pub. L. 87-256, 75 Stat. 538, since §111(c) of the Act provides that a reference in other Acts to a provision of law repealed by §111(a) shall be considered to be a reference to the appropriate provisions of Pub. L. 87-256.

In paragraph (2), the words "of any character" are omitted as surplusage.

In paragraph (3), the words "and a person or agency admitted by an agency as a party for limited purposes" are substituted for "but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes".

In paragraph (9), a comma is supplied between the words "limitation" and "amendment" to correct an editorial error of omission.

In paragraph (10)(C), the words "of any form" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## CODIFICATION

Section 551 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2242 of Title 7, Agriculture.

## AMENDMENTS

2011—Par. (1)(H). Pub. L. 111-350 struck out "chapter 2 of title 41;" after "title 12;".

1994—Par. (1)(H). Pub. L. 103-272 substituted "subchapter II of chapter 471 of title 49; or sections" for "or sections 1622.".

1976—Par. (14). Pub. L. 94-409 added par. (14).

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub. L. 94-409, set out as an Effective Date note under section 552b of this title.

## STUDY AND REPORTS ON ADMINISTRATIVE SUBPOENAS

Pub. L. 106-544, §7, Dec. 19, 2000, 114 Stat. 2719, provided that:

"(a) STUDY ON USE OF ADMINISTRATIVE SUBPOENAS.—Not later than December 31, 2001, the Attorney General, in consultation with the Secretary of the Treasury, shall complete a study on the use of administrative subpoena power by executive branch agencies or entities and shall report the findings to the Committees on the Judiciary of the Senate and the House of Representatives. Such report shall include—

"(1) a description of the sources of administrative subpoena power and the scope of such subpoena power within executive branch agencies;

"(2) a description of applicable subpoena enforcement mechanisms;

"(3) a description of any notification provisions and any other provisions relating to safeguarding privacy interests;

"(4) a description of the standards governing the issuance of administrative subpoenas; and

"(5) recommendations from the Attorney General regarding necessary steps to ensure that administrative subpoena power is used and enforced consistently and fairly by executive branch agencies.

## (b) REPORT ON FREQUENCY OF USE OF ADMINISTRATIVE SUBPOENAS.—

"(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury shall report in January of each year to the Committees on the Judiciary of the Senate and the House of Representatives on the number of administrative subpoenas issued by them under this section and the identity of the agency or component of the Department of Justice or the Department of the Treasury issuing the subpoena and imposing the charges.

"(2) EXPIRATION.—The reporting requirement of this subsection shall terminate in 3 years after the date of the enactment of this section [Dec. 19, 2000]."

## § 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;

(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term "search" means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

(ii) a representative of a government entity described in clause (i).

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

(ii) Such agency regulations shall provide that—

(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or non-commercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

In this clause, the term "a representative of the news media" means any person or entity that

gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purposes of withholding any portions exempt from disclosure under this section. Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section. No fee may be charged by any agency under this section—

(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

(II) for any request described in clause (ii) (II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter *de novo*: *Provided*, That the court's review of the matter shall be limited to the record before the agency.

(viii) An agency shall not assess search fees (or in the case of a requester described under clause (ii)(II), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter *de novo*, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

[(D) Repealed. Pub. L. 98-620, title IV, § 402(2), Nov. 8, 1984, 98 Stat. 3357.]

(E)(i) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(ii) For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through either—

(I) a judicial order, or an enforceable written agreement or consent decree; or

(II) a voluntary or unilateral change in position by the agency, if the complainant's claim is not insubstantial.

(F)(i) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of

the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(ii) The Attorney General shall—

(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i).

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

The 20-day period under clause (i) shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency's regulations under this section to receive requests under this section. The 20-day period shall not be tolled by the agency except—

(I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester under this section; or

(II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period.

(B)(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and

the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C).

(iii) As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular requests—

(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.

(C)(i) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for

records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(ii) For purposes of this subparagraph, the term "exceptional circumstances" does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.

(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.

(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records—

(I) in cases in which the person requesting the records demonstrates a compelling need; and

(II) in other cases determined by the agency.

(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure—

(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

(v) For purposes of this subparagraph, the term "compelling need" means—

(I) that a failure to obtain requested records on an expedited basis under this paragraph

could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.

(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

(7) Each agency shall—

(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and

(B) establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including—

(i) the date on which the agency originally received the request; and

(ii) an estimated date on which the agency will complete action on the request.

(b) This section does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted, and the exemption under which the deletion is made, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted, and the exemption under which the deletion is made, shall be indicated at the place in the record where such deletion is made.

(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

(A) the investigation or proceeding involves a possible violation of criminal law; and

(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(d) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(e)(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include—

(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), the number of occasions on which each statute was relied upon, a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld;

(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median and average number of days that such requests had been pending before the agency as of that date;

(D) the number of requests for records received by the agency and the number of requests which the agency processed;

(E) the median number of days taken by the agency to process different types of requests, based on the date on which the requests were received by the agency;

(F) the average number of days for the agency to respond to a request beginning on the date on which the request was received by the agency, the median number of days for the agency to respond to such requests, and the range in number of days for the agency to respond to such requests;

(G) based on the number of business days that have elapsed since each request was originally received by the agency—

(i) the number of requests for records to which the agency has responded with a determination within a period up to and including 20 days, and in 20-day increments up to and including 200 days;

(ii) the number of requests for records to which the agency has responded with a determination within a period greater than 200 days and less than 301 days;

(iii) the number of requests for records to which the agency has responded with a determination within a period greater than 300 days and less than 401 days; and

(iv) the number of requests for records to which the agency has responded with a determination within a period greater than 400 days;

(H) the average number of days for the agency to provide the granted information beginning on the date on which the request was originally filed, the median number of days for the agency to provide the granted information, and the range in number of days for the agency to provide the granted information;

(I) the median and average number of days for the agency to respond to administrative appeals based on the date on which the appeals originally were received by the agency, the highest number of business days taken by the agency to respond to an administrative appeal, and the lowest number of business days taken by the agency to respond to an administrative appeal;

(J) data on the 10 active requests with the earliest filing dates pending at each agency, including the amount of time that has elapsed since each request was originally received by the agency;

(K) data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

(L) the number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

(M) the number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations;

(N) the total amount of fees collected by the agency for processing requests; and

(O) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

(2) Information in each report submitted under paragraph (1) shall be expressed in terms of each principal component of the agency and for the agency overall.

(3) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means. In addition, each agency shall make the raw statistical data used in its reports available electronically to the public upon request.

(4) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of

the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means.

(5) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

(6) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(f) For purposes of this section, the term—

(1) “agency” as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) “record” and any other term used in this section in reference to information includes—

(A) any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format; and

(B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.

(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including—

(1) an index of all major information systems of the agency;

(2) a description of major information and record locator systems maintained by the agency; and

(3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.

(h)(1) There is established the Office of Government Information Services within the National Archives and Records Administration.

(2) The Office of Government Information Services shall—

(A) review policies and procedures of administrative agencies under this section;

(B) review compliance with this section by administrative agencies; and

(C) recommend policy changes to Congress and the President to improve the administration of this section.

(3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of this section and issue reports detailing the results of such audits.

(j) Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).

(k) The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

(1) have agency-wide responsibility for efficient and appropriate compliance with this section;

(2) monitor implementation of this section throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing this section;

(3) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of this section;

(4) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing this section;

(5) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency's handbook issued under subsection (g), and the agency's annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply; and

(6) designate one or more FOIA Public Liaisons.

(l) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383; Pub. L. 90-23, §1, June 5, 1967, 81 Stat. 54; Pub. L. 93-502, §§1-3, Nov. 21, 1974, 88 Stat. 1561-1564; Pub. L. 94-409, §5(b), Sept. 13, 1976, 90 Stat. 1247; Pub. L. 95-454, title IX, §906(a)(10), Oct. 13, 1978, 92 Stat. 1225; Pub. L. 98-620, title IV, §402(2), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 99-570, title I, §§1802, 1803,

Oct. 27, 1986, 100 Stat. 3207-48, 3207-49; Pub. L. 104-231, §§3-11, Oct. 2, 1996, 110 Stat. 3049-3054; Pub. L. 107-306, title III, §312, Nov. 27, 2002, 116 Stat. 2390; Pub. L. 110-175, §§3, 4(a), 5, 6(a)(1), (b)(1), 7(a), 8-10(a), 12, Dec. 31, 2007, 121 Stat. 2525-2530; Pub. L. 111-83, title V, §564(b), Oct. 28, 2009, 123 Stat. 2184.)

HISTORICAL AND REVISION NOTES  
1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 1002.	June 11, 1946, ch. 324, §3, 60 Stat. 238.

In subsection (b)(3), the words "formulated and" are omitted as surplusage. In the last sentence of subsection (b), the words "in any manner" are omitted as surplusage since the prohibition is all inclusive.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section 1 [of Pub. L. 90-23] amends section 552 of title 5, United States Code, to reflect Public Law 89-487.

In subsection (a)(1)(A), the words "employees (and in the case of a uniformed service, the member)" are substituted for "officer" to retain the coverage of Public Law 89-487 and to conform to the definitions in 5 U.S.C. 2101, 2104, and 2105.

In the last sentence of subsection (a)(2), the words "A final order \* \* \* may be relied on \* \* \* only if" are substituted for "No final order \* \* \* may be relied upon \* \* \* unless"; and the words "a party other than an agency" and "the party" are substituted for "a private party" and "the private party", respectively, on authority of the definition of "private party" in 5 App. U.S.C. 1002(g).

In subsection (a)(3), the words "the responsible employee, and in the case of a uniformed service, the responsible member" are substituted for "the responsible officers" to retain the coverage of Public Law 89-487 and to conform to the definitions in 5 U.S.C. 2101, 2104, and 2105.

In subsection (a)(4), the words "shall maintain and make available for public inspection a record" are substituted for "shall keep a record \* \* \* and that record shall be available for public inspection".

In subsection (b)(5) and (7), the words "a party other than an agency" are substituted for "a private party" on authority of the definition of "private party" in 5 App. U.S.C. 1002(g).

In subsection (c), the words "This section does not authorize" and "This section is not authority" are substituted for "Nothing in this section authorizes" and "nor shall this section be authority", respectively.

5 App. U.S.C. 1002(g), defining "private party" to mean a party other than an agency, is omitted since the words "party other than an agency" are substituted for the words "private party" wherever they appear in revised 5 U.S.C. 552.

5 App. U.S.C. 1002(h), prescribing the effective date, is omitted as unnecessary. That effective date is prescribed by section 4 of this bill.

REFERENCES IN TEXT

The date of enactment of the OPEN FOIA Act of 2009, referred to in subsec. (b)(3)(B), is the date of enactment of Pub. L. 111-83, which was approved Oct. 28, 2009.

CODIFICATION

Section 552 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2243 of Title 7, Agriculture.

AMENDMENTS

2009—Subsec. (b)(3). Pub. L. 111-83 added par. (3) and struck out former par. (3), which read as follows: "spe-

cifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld".

2007—Subsec. (a)(4)(A)(ii). Pub. L. 110-175, §3, inserted concluding provisions.

Subsec. (a)(4)(A)(viii). Pub. L. 110-175, §6(b)(1)(A), added cl. (viii).

Subsec. (a)(4)(E). Pub. L. 110-175, §4(a), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(4)(F). Pub. L. 110-175, §5, designated existing provisions as cl. (i) and added cl. (ii) and (iii).

Subsec. (a)(6)(A). Pub. L. 110-175, §6(a)(1), inserted concluding provisions.

Subsec. (a)(6)(B)(ii). Pub. L. 110-175, §6(b)(1)(B), inserted after the first sentence "To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency."

Subsec. (a)(7). Pub. L. 110-175, §7(a), added par. (7).

Subsec. (b). Pub. L. 110-175, §12, in concluding provisions, inserted "., and the exemption under which the deletion is made," after "The amount of information deleted" in second sentence and after "the amount of the information deleted" in third sentence.

Subsec. (c)(1)(B)(ii). Pub. L. 110-175, §8(a)(1), inserted "the number of occasions on which each statute was relied upon," after "subsection (b)(3)."

Subsec. (e)(1)(C). Pub. L. 110-175, §8(a)(2), inserted "and average" after "median".

Subsec. (e)(1)(E). Pub. L. 110-175, §8(a)(3), inserted before semicolon "., based on the date on which the requests were received by the agency".

Subsec. (e)(1)(F) to (O). Pub. L. 110-175, §8(a)(4), (5), added subpars. (F) to (M) and redesignated former subpars. (F) and (G) as (N) and (O), respectively.

Subsec. (e)(2). Pub. L. 110-175, §8(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 110-175, §8(b)(1), (c), redesignated par. (2) as (3) and inserted at end "In addition, each agency shall make the raw statistical data used in its reports available electronically to the public upon request." Former par. (3) redesignated (4).

Subsec. (e)(4) to (6). Pub. L. 110-175, §8(b)(1), redesignated pars. (3) to (5) as (4) to (6), respectively.

Subsec. (f)(2). Pub. L. 110-175, §9, added par. (2) and struck out former par. (2) which read as follows: "record" and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format."

Subsecs. (h) to (l). Pub. L. 110-175, §10(a), added subsecs. (h) to (l).

2002—Subsec. (a)(8)(A). Pub. L. 107-306, §312(1), inserted "and except as provided in subparagraph (E)," after "of this subsection".

Subsec. (a)(3)(E). Pub. L. 107-306, §312(2), added subpar. (E).

1996—Subsec. (a)(2). Pub. L. 104-231, §4(4), (5), in first sentence struck out "and" at end of subpar. (B) and inserted subpars. (D) and (E).

Pub. L. 104-231, §4(7), inserted after first sentence "For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means."

Pub. L. 104-231, §4(1), in second sentence substituted "staff manual, instruction, or copies of records referred to in subparagraph (D)" for "or staff manual or instruction".

Pub. L. 104-231, §4(2), inserted before period at end of third sentence "., and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication

would harm an interest protected by the exemption in subsection (b) under which the deletion is made".

Pub. L. 104-231, §4(3), inserted after third sentence "If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made."

Pub. L. 104-231, §4(6), which directed the insertion of the following new sentence after the fifth sentence "Each agency shall make the index referred to in subparagraph (B) available by computer telecommunications by December 31, 1999.", was executed by making the insertion after the sixth sentence, to reflect the probable intent of Congress and the addition of a new sentence by section 4(3) of Pub. L. 104-231.

Subsec. (a)(3). Pub. L. 104-231, §5, inserted subparagraph (A) designation after "(3)", redesignated subpars. (A) and (B) as cl. (i) and (ii), respectively, and added subpars. (B) to (D).

Subsec. (a)(4)(B). Pub. L. 104-231, §6, inserted at end "In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B)."

Subsec. (a)(6)(A)(i). Pub. L. 104-231, §8(b), substituted "20 days" for "ten days".

Subsec. (a)(6)(B). Pub. L. 104-231, §7(b), amended subparagraph (B) generally. Prior to amendment, subparagraph (B) read as follows: "In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request—

"(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

"(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

"(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein."

Subsec. (a)(6)(C). Pub. L. 104-231, §7(c), designated existing provisions as cl. (i) and added cl. (ii) and (iii).

Subsec. (a)(6)(D). Pub. L. 104-231, §7(a), added subparagraph (D).

Subsec. (a)(6)(E), (F). Pub. L. 104-231, §8(a), (c), added subpars. (E) and (F).

Subsec. (b). Pub. L. 104-231, §9, inserted at end of closing provisions "The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made."

Subsec. (e). Pub. L. 104-231, §10, amended subsec. (c) generally, revising and restating provisions relating to reports to Congress.

Subsec. (f). Pub. L. 104-231, §8, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "For purposes of this section, the term 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency."

Subsec. (g). Pub. L. 104-231, §11, added subsec. (g). 1986—Subsec. (a)(4)(A). Pub. L. 99-570, §1803, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.”

Subsec. (b)(7). Pub. L. 99-570, §1802(a), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.”

Subsecs. (c) to (f). Pub. L. 99-570, §1802(b), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1984—Subsec. (a)(4)(D). Pub. L. 98-620 repealed subpar. (D) which provided for precedence on the docket and expeditious disposition of district court proceedings authorized by subsec. (a).

1978—Subsec. (a)(4)(F). Pub. L. 95-454 substituted references to the Special Counsel for references to the Civil Service Commission wherever appearing and reference to his findings for reference to its findings.

1976—Subsec. (b)(3). Pub. L. 94-409 inserted provision excluding section 552b of this title from applicability of exemption from disclosure and provision setting forth conditions for statute specifically exempting disclosure.

1974—Subsec. (a)(2). Pub. L. 93-502, §1(a), substituted provisions relating to maintenance and availability of current indexes, for provisions relating to maintenance and availability of a current index, and inserted provisions relating to publication and distribution of copies of indexes or supplements thereto.

Subsec. (a)(3). Pub. L. 93-502, §1(b)(1), substituted provisions requiring requests to reasonably describe records for provisions requiring requests, for identifiable records, and struck out provisions setting forth procedures to enjoin agencies from withholding the requested records and ordering their production.

Subsec. (a)(4). (5). Pub. L. 93-502, §1(b)(2), added par. (4) and redesignated former par. (4) as (5).

Subsec. (a)(6). Pub. L. 93-502, §1(c), added par. (6).

Subsec. (b)(1). Pub. L. 93-502, §2(a), designated existing provisions as cl. (A), substituted “authorized under criteria established by an” for “required by”, and added cl. (B).

Subsec. (b)(7). Pub. L. 93-502, §2(b), substituted provisions relating to exemption for investigatory records compiled for law enforcement purposes, for provisions relating to exemption for investigatory files compiled for law enforcement purposes.

Subsec. (b), foll. par. (9). Pub. L. 93-502, §2(c), inserted provision relating to availability of segregable portion of records.

Subsecs. (d). (e). Pub. L. 93-502, §3, added subsecs. (d) and (e).

1967—Subsec. (a). Pub. L. 90-23 substituted introductory statement requiring every agency to make avail-

able to the public certain information for former introductory provision excepting from disclosure (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating to internal management of an agency, covered in subsec. (b)(1) and (2) of this section.

Subsec. (a)(1). Pub. L. 90-23 incorporated provisions of: former subsec. (b)(1) in (A), inserting requirement of publication of names of officers as sources of information and provision for public to obtain decisions, and striking out publication requirement for delegations by the agency of final authority: former subsec. (b)(2), introductory part, in (B); former subsec. (b)(2), concluding part, in (C), inserting publication requirement for rules of procedure and descriptions of forms available or the places at which forms may be obtained; former subsec. (b)(3), introductory part, in (D), inserting requirement of general applicability of substantive rules and interpretations, added clause (E), substituted exemption of any person from failure to resort to any matter or from being adversely affected by any matter required to be published in the Federal Register but not so published for former subsec. (b)(3), concluding part, excepting from publication rules addressed to and served upon named persons in accordance with laws and final sentence reading “A person may not be required to resort to organization or procedure not so published” and inserted provision deeming matter, which is reasonably available, as published in the Federal Register when such matter is incorporated by reference in the Federal Register with the approval of its Director.

Subsec. (a)(2). Pub. L. 90-23 incorporated provisions of former subsec. (c), provided for public copying of records, struck out requirement of agency publication of final opinions or orders and authority for secrecy and withholding of opinions and orders required for good cause to be held confidential and not cited as precedents, latter provision now superseded by subsec. (b) of this section, designated existing subsec. (c) as clause (A), including provision for availability of concurring and dissenting opinions, inserted provisions for availability of policy statements and interpretations in clause (B) and staff manuals and instructions in clause (C), deletion of personal identifications from records to protect personal privacy with written justification therefor, and provision for indexing and prohibition of use of records not indexed against any private party without actual and timely notice of the terms thereof.

Subsec. (a)(3). Pub. L. 90-23 incorporated provisions of former subsec. (d) and substituted provisions requiring identifiable agency records to be made available to any person upon request and compliance with rules as to time, place, and procedure for inspection, and payment of fees and provisions for Federal district court proceedings *de novo* for enforcement by contempt of non-compliance with court’s orders with the burden on the agency and docket precedence for such proceedings for former provisions requiring matters of official record to be made available to persons properly and directly concerned except information held confidential for good cause shown, the latter provision superseded by subsec. (b) of this section.

Subsec. (a)(4). Pub. L. 90-23 added par. (4).

Subsec. (b). Pub. L. 90-23 added subsec. (b) which superseded provisions excepting from disclosure any function of the United States requiring secrecy in the public interest or any matter relating to internal management of an agency, formerly contained in former subsec. (a), final opinions or orders required for good cause to be held confidential and not cited as precedents, formerly contained in subsec. (c), and information held confidential for good cause found, contained in former subsec. (d) of this section.

Subsec. (c). Pub. L. 90-23 added subsec. (c).

#### CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by

Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-175, §6(a)(2), Dec. 31, 2007, 121 Stat. 2526, provided that: "The amendment made by this subsection [amending this section] shall take effect 1 year after the date of enactment of this Act [Dec. 31, 2007]."

Pub. L. 110-175, §6(b)(2), Dec. 31, 2007, 121 Stat. 2526, provided that: "The amendment made by this subsection [amending this section] shall take effect 1 year after the date of enactment of this Act [Dec. 31, 2007] and apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date."

Pub. L. 110-175, §7(b), Dec. 31, 2007, 121 Stat. 2527, provided that: "The amendment made by this section [amending this section] shall take effect 1 year after the date of enactment of this Act [Dec. 31, 2007] and apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date."

Pub. L. 110-175, §10(b), Dec. 31, 2007, 121 Stat. 2530, provided that: "The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Dec. 31, 2007]."

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 12 of Pub. L. 104-231 provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), this Act [amending this section and enacting provisions set out as notes below] shall take effect 180 days after the date of the enactment of this Act [Oct. 2, 1996].

"(b) PROVISIONS EFFECTIVE ON ENACTMENT [sic].—Sections 7 and 8 [amending this section] shall take effect one year after the date of the enactment of this Act [Oct. 2, 1996]."

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 1804 of Pub. L. 99-570 provided that:

"(a) The amendments made by section 1802 [amending this section] shall be effective on the date of enactment of this Act [Oct. 27, 1986], and shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date.

"(b)(1) The amendments made by section 1803 [amending this section] shall be effective 180 days after the date of enactment of this Act [Oct. 27, 1986], except that regulations to implement such amendments shall be promulgated by such 180th day.

"(2) The amendments made by section 1803 [amending this section] shall apply with respect to any requests for records, whether or not the request was made prior to such date, and shall apply to any civil action pending on such date, except that review charges applicable to records requested for commercial use shall not be applied by an agency to requests made before the effective date specified in paragraph (1) of this subsection or before the agency has finally issued its regulations."

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub. L. 94-409, set out as an Effective Date note under section 552b of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93-502 provided that: "The amendments made by this Act [amending this section] shall take effect on the ninetieth day beginning after the date of enactment of this Act [Nov. 21, 1974]."

#### EFFECTIVE DATE OF 1967 AMENDMENT

Section 4 of Pub. L. 90-23 provided that: "This Act [amending this section] shall be effective July 4, 1967, or on the date of enactment [June 5, 1967], whichever is later."

#### SHORT TITLE OF 1996 AMENDMENT

Section 1 of Pub. L. 104-231 provided that: "This Act [amending this section and enacting provisions set out as notes under this section] may be cited as the 'Electronic Freedom of Information Act Amendments of 1996'."

#### SHORT TITLE OF 1986 AMENDMENT

Section 1801 of Pub. L. 99-570 provided that: "This subtitle [subtitle N (§§1801-1804) of title I of Pub. L. 99-570, amending this section and enacting provisions set out as a note under this section] may be cited as the 'Freedom of Information Reform Act of 1986'."

#### SHORT TITLE

This section is popularly known as the "Freedom of Information Act".

#### PROTECTED NATIONAL SECURITY DOCUMENTS

Pub. L. 111-83, title V, §565, Oct. 28, 2009, 123 Stat. 2184, provided that:

"(a) SHORT TITLE.—This section may be cited as the 'Protected National Security Documents Act of 2009'.

"(b) Notwithstanding any other provision of the law to the contrary, no protected document, as defined in subsection (c), shall be subject to disclosure under section 552 of title 5, United States Code[, or any proceeding under that section.]

"(c) DEFINITIONS.—In this section:

"(1) PROTECTED DOCUMENT.—The term 'protected document' means any record—

"(A) for which the Secretary of Defense has issued a certification, as described in subsection (d), stating that disclosure of that record would endanger citizens of the United States, members of the United States Armed Forces, or employees of the United States Government deployed outside the United States; and

"(B) that is a photograph that—

"(i) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

"(ii) relates to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States.

"(2) PHOTOGRAPH.—The term 'photograph' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

"(d) CERTIFICATION.—

"(1) IN GENERAL.—For any photograph described under subsection (c)(1), the Secretary of Defense shall issue a certification if the Secretary of Defense determines that disclosure of that photograph would endanger citizens of the United States, members of the United States Armed Forces, or employees of the United States Government deployed outside the United States.

"(2) CERTIFICATION EXPIRATION.—A certification and a renewal of a certification issued pursuant to subsection (d)(3) shall expire 3 years after the date on

which the certification or renewal, [sic] is issued by the Secretary of Defense.

“(3) CERTIFICATION RENEWAL.—The Secretary of Defense may issue—

“(A) a renewal of a certification at any time; and  
“(B) more than 1 renewal of a certification.

“(4) NOTICE TO CONGRESS.—The Secretary of Defense shall provide Congress a timely notice of the Secretary's issuance of a certification and of a renewal of a certification.

“(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude the voluntary disclosure of a protected document.

“(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act [Oct. 28, 2009] and apply to any protected document.”

#### FINDINGS

Pub. L. 110-175, § 2, Dec. 31, 2007, 121 Stat. 2524, provided that: “Congress finds that—

“(1) the Freedom of Information Act [probably means Pub. L. 89-487 which amended section 1002 of former Title 5, Executive Departments and Government Officers and Employees, see Historical and Revision notes above] was signed into law on July 4, 1966, because the American people believe that—

“(A) our constitutional democracy, our system of self-government, and our commitment to popular sovereignty depends upon the consent of the governed;

“(B) such consent is not meaningful unless it is informed consent; and

“(C) as Justice Black noted in his concurring opinion in *Barr v. Matteo* (360 U.S. 564 (1959)), ‘The effective functioning of a free government like ours depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employees.’;

“(2) the American people firmly believe that our system of government must itself be governed by a presumption of openness;

“(3) the Freedom of Information Act establishes a ‘strong presumption in favor of disclosure’ as noted by the United States Supreme Court in *United States Department of State v. Ray* (502 U.S. 164 (1991)), a presumption that applies to all agencies governed by that Act;

“(4) ‘disclosure, not secrecy, is the dominant objective of the Act,’ as noted by the United States Supreme Court in *Department of Air Force v. Rose* (425 U.S. 352 (1976));

“(5) in practice, the Freedom of Information Act has not always lived up to the ideals of that Act; and

“(6) Congress should regularly review section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), in order to determine whether further changes and improvements are necessary to ensure that the Government remains open and accessible to the American people and is always based not upon the ‘need to know’ but upon the fundamental ‘right to know’.”

#### LIMITATION ON AMOUNTS OBLIGATED OR EXPENDED FROM CLAIMS AND JUDGMENT FUND

Pub. L. 110-175, § 4(b), Dec. 31, 2007, 121 Stat. 2525, provided that: “Notwithstanding section 1304 of title 31, United States Code, no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay the costs resulting from fees assessed under section 552(a)(4)(E) of title 5, United States Code. Any such amounts shall be paid only from funds annually appropriated for any authorized purpose for the Federal agency against which a claim or judgment has been rendered.”

#### NONDISCLOSURE OF CERTAIN PRODUCTS OF COMMERCIAL SATELLITE OPERATIONS

Pub. L. 108-375, div. A, title IX, § 914, Oct. 28, 2004, 118 Stat. 2029, provided that:

“(a) MANDATORY DISCLOSURE REQUIREMENTS INAPPLICABLE.—The requirements to make information available under section 552 of title 5, United States Code, shall not apply to land remote sensing information.

“(b) LAND REMOTE SENSING INFORMATION DEFINED.—In this section, the term ‘land remote sensing information’—

“(1) means any data that—

“(A) are collected by land remote sensing; and

“(B) are prohibited from sale to customers other than the United States Government and United States Government-approved customers for reasons of national security pursuant to the terms of an operating license issued pursuant to the Land Remote Sensing Policy Act of 1992 ([former] 15 U.S.C. 5601 et seq.) [now 51 U.S.C. 60101 et seq.]; and

“(2) includes any imagery and other product that is derived from such data and which is prohibited from sale to customers other than the United States Government and United States Government-approved customers for reasons of national security pursuant to the terms of an operating license described in paragraph (1)(B).

“(c) STATE OR LOCAL GOVERNMENT DISCLOSURES.—Land remote sensing information provided by the head of a department or agency of the United States to a State, local, or tribal government may not be made available to the general public under any State, local, or tribal law relating to the disclosure of information or records.

“(d) SAFEGUARDING INFORMATION.—The head of each department or agency of the United States having land remote sensing information within that department or agency or providing such information to a State, local, or tribal government shall take such actions, commensurate with the sensitivity of that information, as are necessary to protect that information from disclosure other than in accordance with this section and other applicable law.

“(e) ADDITIONAL DEFINITION.—In this section, the term ‘land remote sensing’ has the meaning given such term in section 3 of the Land Remote Sensing Policy Act of 1992 ([former] 15 U.S.C. 5602) [now 51 U.S.C. 60101].

“(f) DISCLOSURE TO CONGRESS.—Nothing in this section shall be construed to authorize the withholding of information from the appropriate committees of Congress.”

#### DISCLOSURE OF ARSON, EXPLOSIVE, OR FIREARM RECORDS

Pub. L. 108-7, div. J, title VI, § 644, Feb. 20, 2003, 117 Stat. 473, provided that: “No funds appropriated under this Act or any other Act with respect to any fiscal year shall be available to take any action based upon any provision of 5 U.S.C. 552 with respect to records collected or maintained pursuant to 18 U.S.C. 846(b), 923(g)(3) or 923(g)(7), or provided by Federal, State, local, or foreign law enforcement agencies in connection with arson or explosive incidents or the tracing of a firearm, except that such records may continue to be disclosed to the extent and in the manner that records so collected, maintained, or obtained have been disclosed under 5 U.S.C. 552 prior to the date of the enactment of this Act [Feb. 20, 2003].”

#### DISCLOSURE OF INFORMATION ON JAPANESE IMPERIAL GOVERNMENT

Pub. L. 106-567, title VIII, Dec. 27, 2000, 114 Stat. 2864, as amended by Pub. L. 108-199, div. H, § 163, Jan. 23, 2004, 118 Stat. 452; Pub. L. 109-5, § 1, Mar. 25, 2005, 119 Stat. 19, provided that:

#### “SEC. 801. SHORT TITLE.

“This title may be cited as the ‘Japanese Imperial Government Disclosure Act of 2000’.

#### “SEC. 802. DESIGNATION.

“(a) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ has the meaning given such term under section 551 of title 5, United States Code.

“(2) INTERAGENCY GROUP.—The term ‘Intergency Group’ means the Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group established under subsection (b).

“(3) JAPANESE IMPERIAL GOVERNMENT RECORDS.—The term ‘Japanese Imperial Government records’ means classified records or portions of records that pertain to any person with respect to whom the United States Government, in its sole discretion, has grounds to believe ordered, incited, assisted, or otherwise participated in the experimentation on, and persecution of, any person because of race, religion, national origin, or political opinion, during the period beginning September 18, 1931, and ending on December 31, 1948, under the direction of, or in association with—

“(A) the Japanese Imperial Government;

“(B) any government in any area occupied by the military forces of the Japanese Imperial Government;

“(C) any government established with the assistance or cooperation of the Japanese Imperial Government; or

“(D) any government which was an ally of the Japanese Imperial Government.

“(4) RECORD.—The term ‘record’ means a Japanese Imperial Government record.

“(b) ESTABLISHMENT OF INTERAGENCY GROUP.—

“(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 27, 2000], the President shall designate the Working Group established under the Nazi War Crimes Disclosure Act (Public Law 105-246; 5 U.S.C. 552 note) to also carry out the purposes of this title with respect to Japanese Imperial Government records, and that Working Group shall remain in existence for 6 years after the date on which this title takes effect. Such Working Group is redesignated as the ‘Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group’.

“(2) MEMBERSHIP.—[Amended Pub. L. 105-246, set out as a note below.]

“(c) FUNCTIONS.—Not later than 1 year after the date of the enactment of this Act [Dec. 27, 2000], the Interagency Group shall, to the greatest extent possible consistent with section 803—

“(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all classified Japanese Imperial Government records of the United States;

“(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

“(3) submit a report to Congress, including the Committee on Government Reform [now Committee on Oversight and Government Reform] and the Permanent Select Committee on Intelligence of the House of Representatives, and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate, describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

“(d) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

#### “SEC. 803. REQUIREMENT OF DISCLOSURE OF RECORDS.

“(a) RELEASE OF RECORDS.—Subject to subsections (b), (c), and (d), the Japanese Imperial Government Records Interagency Working Group shall release in their entirety Japanese Imperial Government records.

“(b) EXEMPTIONS.—An agency head may exempt from release under subsection (a) specific information, that would—

“(1) constitute an unwarranted invasion of personal privacy;

“(2) reveal the identity of a confidential human source, or reveal information about an intelligence source or method when the unauthorized disclosure of that source or method would damage the national security interests of the United States;

“(3) reveal information that would assist in the development or use of weapons of mass destruction;

“(4) reveal information that would impair United States cryptologic systems or activities;

“(5) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

“(6) reveal United States military war plans that remain in effect;

“(7) reveal information that would impair relations between the United States and a foreign government, or undermine ongoing diplomatic activities of the United States;

“(8) reveal information that would impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services are authorized in the interest of national security;

“(9) reveal information that would impair current national security emergency preparedness plans; or

“(10) violate a treaty or other international agreement.

#### “(c) APPLICATIONS OF EXEMPTIONS.—

“(1) IN GENERAL.—In applying the exemptions provided in paragraphs (2) through (10) of subsection (b), there shall be a presumption that the public interest will be served by disclosure and release of the records of the Japanese Imperial Government. The exemption may be asserted only when the head of the agency that maintains the records determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on Government Reform [now Committee on Oversight and Government Reform] and the Permanent Select Committee on Intelligence of the House of Representatives.

“(2) APPLICATION OF TITLE 5.—A determination by an agency head to apply an exemption provided in paragraphs (2) through (9) of subsection (b) shall be subject to the same standard of review that applies in the case of records withheld under section 552(b)(1) of title 5, United States Code.

#### “(d) RECORDS RELATED TO INVESTIGATIONS OR PROSECUTIONS.—This section shall not apply to records—

“(1) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

“(2) solely in the possession, custody, or control of the Office of Special Investigations.

#### “SEC. 804. EXPEDITED PROCESSING OF REQUESTS FOR JAPANESE IMPERIAL GOVERNMENT RECORDS.

“For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any person who was persecuted in the manner described in section 802(a)(3) and who requests a Japanese Imperial Government record shall be deemed to have a compelling need for such record.

#### “SEC. 805. EFFECTIVE DATE.

“The provisions of this title shall take effect on the date that is 90 days after the date of the enactment of this Act [Dec. 27, 2000].”

#### NAZI WAR CRIMES DISCLOSURE

Pub. L. 105-246, Oct. 8, 1998, 112 Stat. 1859, as amended by Pub. L. 106-567, § 802(b)(2), Dec. 27, 2000, 114 Stat. 2865, provided that:

#### “SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Nazi War Crimes Disclosure Act’.

## “SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS INTERAGENCY WORKING GROUP.

“(a) DEFINITIONS.—In this section the term—

“(1) ‘agency’ has the meaning given such term under section 551 of title 5, United States Code;

“(2) ‘Interagency Group’ means the Nazi War Criminal Records Interagency Working Group [redesignated Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group, see section 802(b)(1) of Pub. L. 106-567, set out above] established under subsection (b);

“(3) ‘Nazi war criminal records’ has the meaning given such term under section 3 of this Act; and

“(4) ‘record’ means a Nazi war criminal record.

## “(b) ESTABLISHMENT OF INTERAGENCY GROUP.—

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Oct. 8, 1998], the President shall establish the Nazi War Criminal Records Interagency Working Group, which shall remain in existence for 3 years after the date the Interagency Group is established.

“(2) MEMBERSHIP.—The President shall appoint to the Interagency Group individuals whom the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section, including the Director of the Holocaust Museum, the Historian of the Department of State, the Archivist of the United States, the head of any other agency the President considers appropriate, and no more than 4 other persons who shall be members of the public, of whom 3 shall be persons appointed under the provisions of this Act in effect on October 8, 1998. [sic] The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

“(3) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

“(c) FUNCTIONS.—Not later than 1 year after the date of enactment of this Act [Oct. 8, 1998], the Interagency Group shall, to the greatest extent possible consistent with section 3 of this Act—

“(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all classified Nazi war criminal records of the United States;

“(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

“(3) submit a report to Congress, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight [now Committee on Oversight and Government Reform] of the House of Representatives, describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

“(d) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

## “SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.

“(a) NAZI WAR CRIMINAL RECORDS.—For purposes of this Act, the term ‘Nazi war criminal records’ means classified records or portions of records that—

“(1) pertain to any person with respect to whom the United States Government, in its sole discretion, has grounds to believe ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

“(A) the Nazi government of Germany;

“(B) any government in any area occupied by the military forces of the Nazi government of Germany;

“(C) any government established with the assistance or cooperation of the Nazi government of Germany; or

“(D) any government which was an ally of the Nazi government of Germany; or

“(2) pertain to any transaction as to which the United States Government, in its sole discretion, has grounds to believe—

“(A) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, or behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

“(B) such transaction was completed without the assent of the owners of those assets or their heirs or assigns or other legitimate representatives.

## “(b) RELEASE OF RECORDS.—

“(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Nazi War Criminal Records Interagency Working Group shall release in their entirety Nazi war criminal records that are described in subsection (a).

“(2) EXCEPTION FOR PRIVACY, ETC.—An agency head may exempt from release under paragraph (1) specific information, that would—

“(A) constitute a clearly unwarranted invasion of personal privacy;

“(B) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

“(C) reveal information that would assist in the development or use of weapons of mass destruction;

“(D) reveal information that would impair United States cryptologic systems or activities;

“(E) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

“(F) reveal actual United States military war plans that remain in effect;

“(G) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

“(H) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

“(I) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

“(J) violate a treaty or international agreement.

## “(3) APPLICATION OF EXEMPTIONS.—

“(A) IN GENERAL.—In applying the exemptions listed in subparagraphs (B) through (J) of paragraph (2), there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records. Assertion of such exemption may only be made when the agency head determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight [now Committee on Oversight and Government Reform] of the House of Representatives. The exemptions set forth in paragraph (2) shall constitute the only authority pursuant to which an agency head may

exempt records otherwise subject to release under paragraph (1).

“(B) APPLICATION OF TITLE 5.—A determination by an agency head to apply an exemption listed in subparagraphs (B) through (I) of paragraph (2) shall be subject to the same standard of review that applies in the case of records withheld under section 552(b)(1) of title 5, United States Code.

“(4) LIMITATION ON APPLICATION.—This subsection shall not apply to records—

“(A) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

“(B) solely in the possession, custody, or control of that office.

“(c) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701(a) of the National Security Act of 1947 (50 U.S.C. 4311(a)) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 3 of this Act.

“SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

“(a) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

“(b) REQUESTER.—For purposes of this section, the term ‘requester’ means any person who was persecuted in the manner described under section 3(a)(1) of this Act who requests a Nazi war criminal record.

“SEC. 5. EFFECTIVE DATE.

“This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act [Oct. 8, 1998].”

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE; PUBLIC ACCESS TO INFORMATION IN ELECTRONIC FORMAT

Section 2 of Pub. L. 104-231 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) the purpose of section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, is to require agencies of the Federal Government to make certain agency information available for public inspection and copying and to establish and enable enforcement of the right of any person to obtain access to the records of such agencies, subject to statutory exemptions, for any public or private purpose;

“(2) since the enactment of the Freedom of Information Act in 1966, and the amendments enacted in 1974 and 1986, the Freedom of Information Act has been a valuable means through which any person can learn how the Federal Government operates;

“(3) the Freedom of Information Act has led to the disclosure of waste, fraud, abuse, and wrongdoing in the Federal Government;

“(4) the Freedom of Information Act has led to the identification of unsafe consumer products, harmful drugs, and serious health hazards;

“(5) Government agencies increasingly use computers to conduct agency business and to store publicly valuable agency records and information; and

“(6) Government agencies should use new technology to enhance public access to agency records and information.

“(b) PURPOSES.—The purposes of this Act [see Short Title of 1996 Amendment note above] are to—

“(1) foster democracy by ensuring public access to agency records and information;

“(2) improve public access to agency records and information;

“(3) ensure agency compliance with statutory time limits; and

“(4) maximize the usefulness of agency records and information collected, maintained, used, retained, and disseminated by the Federal Government.”

#### FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN OPEN SKIES TREATY DATA

Pub. L. 103-236, title V, § 533, Apr. 30, 1994, 108 Stat. 480, provided that:

“(a) IN GENERAL.—Data with respect to a foreign country collected by sensors during observation flights conducted in connection with the Treaty on Open Skies, including flights conducted prior to entry into force of the treaty, shall be exempt from disclosure under the Freedom of Information Act—

“(1) if the country has not disclosed the data to the public; and

“(2) if the country has not, acting through the Open Skies Consultative Commission or any other diplomatic channel, authorized the United States to disclose the data to the public.

“(b) STATUTORY CONSTRUCTION.—This section constitutes a specific exemption within the meaning of section 552(b)(8) of title 5, United States Code.

“(c) DEFINITIONS.—For the purposes of this section—

“(1) the term ‘Freedom of Information Act’ means the provisions of section 552 of title 5, United States Code;

“(2) the term ‘Open Skies Consultative Commission’ means the commission established pursuant to Article X of the Treaty on Open Skies; and

“(3) the term ‘Treaty on Open Skies’ means the Treaty on Open Skies, signed at Helsinki on March 24, 1992.”

#### CLASSIFIED NATIONAL SECURITY INFORMATION

For provisions relating to a response to a request for information under this section when the fact of its existence or nonexistence is itself classified or when it was originally classified by another agency, see Ex. Ord. No. 13526, § 3.6, Dec. 29, 2009, 75 F.R. 718, set out as a note under section 435 of Title 50, War and National Defense.

#### EXECUTIVE ORDER NO. 12174

Ex. Ord. No. 12174, Nov. 30, 1979, 44 F.R. 69609, which related to minimizing Federal paperwork, was revoked by Ex. Ord. No. 12291, Feb. 17, 1981, 46 F.R. 13193, formerly set out as a note under section 601 of this title.

#### EX. ORD. NO. 12600. PREDISCLOSURE NOTIFICATION PROCEDURES FOR CONFIDENTIAL COMMERCIAL INFORMATION

Ex. Ord. No. 12600, June 23, 1987, 52 F.R. 23781, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to provide predisclosure notification procedures under the Freedom of Information Act [5 U.S.C. 552] concerning confidential commercial information, and to make existing agency notification provisions more uniform, it is hereby ordered as follows:

SECTION 1. The head of each Executive department and agency subject to the Freedom of Information Act [5 U.S.C. 552] shall, to the extent permitted by law, establish procedures to notify submitters of records containing confidential commercial information as described in section 3 of this Order, when those records are requested under the Freedom of Information Act [FOIA], 5 U.S.C. 552, as amended, if after reviewing the request, the responsive records, and any appeal by the requester, the department or agency determines that it may be required to disclose the records. Such notice requires that an agency use good-faith efforts to advise submitters of confidential commercial information of the procedures established under this Order. Further, where notification of a voluminous number of submitters is required, such notification may be accomplished by posting or publishing the notice in a place reasonably calculated to accomplish notification.

SEC. 2. For purposes of this Order, the following definitions apply:

(a) “Confidential commercial information” means records provided to the government by a submitter that arguably contain material exempt from release

under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(b) "Submitter" means any person or entity who provides confidential commercial information to the government. The term "submitter" includes, but is not limited to, corporations, state governments, and foreign governments.

SEC. 3. (a) For confidential commercial information submitted prior to January 1, 1988, the head of each Executive department or agency shall, to the extent permitted by law, provide a submitter with notice pursuant to section 1 whenever:

(i) the records are less than 10 years old and the information has been designated by the submitter as confidential commercial information; or

(ii) the department or agency has reason to believe that disclosure of the information could reasonably be expected to cause substantial competitive harm.

(b) For confidential commercial information submitted on or after January 1, 1988, the head of each Executive department or agency shall, to the extent permitted by law, establish procedures to permit submitters of confidential commercial information to designate, at the time the information is submitted to the Federal government or a reasonable time thereafter, any information the disclosure of which the submitter claims could reasonably be expected to cause substantial competitive harm. Such agency procedures may provide for the expiration, after a specified period of time or changes in circumstances, of designations of competitive harm made by submitters. Additionally, such procedures may permit the agency to designate specific classes of information that will be treated by the agency as if the information had been so designated by the submitter. The head of each Executive department or agency shall, to the extent permitted by law, provide the submitter notice in accordance with section 1 of this Order whenever the department or agency determines that it may be required to disclose records:

(i) designated pursuant to this subsection; or

(ii) the disclosure of which the department or agency has reason to believe could reasonably be expected to cause substantial competitive harm.

SEC. 4. When notification is made pursuant to section 1, each agency's procedures shall, to the extent permitted by law, afford the submitter a reasonable period of time in which the submitter or its designee may object to the disclosure of any specified portion of the information and to state all grounds upon which disclosure is opposed.

SEC. 5. Each agency shall give careful consideration to all such specified grounds for nondisclosure prior to making an administrative determination of the issue. In all instances when the agency determines to disclose the requested records, its procedures shall provide that the agency give the submitter a written statement briefly explaining why the submitter's objections are not sustained. Such statement shall, to the extent permitted by law, be provided a reasonable number of days prior to a specified disclosure date.

SEC. 6. Whenever a FOIA requester brings suit seeking to compel disclosure of confidential commercial information, each agency's procedures shall require that the submitter be promptly notified.

SEC. 7. The designation and notification procedures required by this Order shall be established by regulations, after notice and public comment. If similar procedures or regulations already exist, they should be reviewed for conformity and revised where necessary. Existing procedures or regulations need not be modified if they are in compliance with this Order.

SEC. 8. The notice requirements of this Order need not be followed if:

(a) The agency determines that the information should not be disclosed;

(b) The information has been published or has been officially made available to the public;

(c) Disclosure of the information is required by law (other than 5 U.S.C. 552);

(d) The disclosure is required by an agency rule that (1) was adopted pursuant to notice and public comment, (2) specifies narrow classes of records submitted to the agency that are to be released under the Freedom of Information Act [5 U.S.C. 552], and (3) provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(e) The information requested is not designated by the submitter as exempt from disclosure in accordance with agency regulations promulgated pursuant to section 7, when the submitter had an opportunity to do so at the time of submission of the information or a reasonable time thereafter, unless the agency has substantial reason to believe that disclosure of the information would result in competitive harm; or

(f) The designation made by the submitter in accordance with agency regulations promulgated pursuant to section 7 appears obviously frivolous; except that, in such case, the agency must provide the submitter with written notice of any final administrative disclosure determination within a reasonable number of days prior to the specified disclosure date.

SEC. 9. Whenever an agency notifies a submitter that it may be required to disclose information pursuant to section 1 of this Order, the agency shall also notify the requester that notice and an opportunity to comment are being provided the submitter. Whenever an agency notifies a submitter of a final decision pursuant to section 5 of this Order, the agency shall also notify the requester.

SEC. 10. This Order is intended only to improve the internal management of the Federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

RONALD REAGAN.

EX. ORD. NO. 13110. NAZI WAR CRIMES AND JAPANESE IMPERIAL GOVERNMENT RECORDS INTERAGENCY WORKING GROUP

Ex. Ord. No. 13110, Jan. 11, 1999, 64 F.R. 2419, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Nazi War Crimes Disclosure Act (Public Law 105-246) (the "Act") [5 U.S.C. 552 note], it is hereby ordered as follows:

SECTION 1. *Establishment of Working Group.* There is hereby established the Nazi War Criminal Records Interagency Working Group [now Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group] (Working Group). The function of the Group shall be to locate, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration all classified Nazi war criminal records of the United States, subject to certain designated exceptions as provided in the Act. The Working Group shall coordinate with agencies and take such actions as necessary to expedite the release of such records to the public.

SEC. 2. *Schedule.* The Working Group should complete its work to the greatest extent possible and report to the Congress within 1 year.

SEC. 3. *Membership.* (a) The Working Group shall be composed of the following members:

- (1) Archivist of the United States (who shall serve as Chair of the Working Group);
- (2) Secretary of Defense;
- (3) Attorney General;
- (4) Director of Central Intelligence;
- (5) Director of the Federal Bureau of Investigation;
- (6) Director of the United States Holocaust Memorial Museum;
- (7) Historian of the Department of State; and
- (8) Three other persons appointed by the President.

(b) The Senior Director for Records and Access Management of the National Security Council will serve as

the liaison to and attend the meetings of the Working Group. Members of the Working Group who are full-time Federal officials may serve on the Working Group through designees.

SEC. 4. *Administration.* (a) To the extent permitted by law and subject to the availability of appropriations, the National Archives and Records Administration shall provide the Working Group with funding, administrative services, facilities, staff, and other support services necessary for the performance of the functions of the Working Group.

(b) The Working Group shall terminate 3 years from the date of this Executive order.

WILLIAM J. CLINTON.

EX. ORD. NO. 13392. IMPROVING AGENCY DISCLOSURE OF INFORMATION

Ex. Ord. No. 13392, Dec. 14, 2005. 70 F.R. 75373. provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to ensure appropriate agency disclosure of information, and consistent with the goals of section 552 of title 5, United States Code, it is hereby ordered as follows:

**SECTION 1. Policy.**

(a) The effective functioning of our constitutional democracy depends upon the participation in public life of a citizenry that is well informed. For nearly four decades, the Freedom of Information Act (FOIA) [5 U.S.C. 552] has provided an important means through which the public can obtain information regarding the activities of Federal agencies. Under the FOIA, the public can obtain records from any Federal agency, subject to the exemptions enacted by the Congress to protect information that must be held in confidence for the Government to function effectively or for other purposes.

(b) FOIA requesters are seeking a service from the Federal Government and should be treated as such. Accordingly, in responding to a FOIA request, agencies shall respond courteously and appropriately. Moreover, agencies shall provide FOIA requesters, and the public in general, with citizen-centered ways to learn about the FOIA process, about agency records that are publicly available (e.g., on the agency's website), and about the status of a person's FOIA request and appropriate information about the agency's response.

(c) Agency FOIA operations shall be both results-oriented and produce results. Accordingly, agencies shall process requests under the FOIA in an efficient and appropriate manner and achieve tangible, measurable improvements in FOIA processing. When an agency's FOIA program does not produce such results, it should be reformed, consistent with available resources appropriated by the Congress and applicable law, to increase efficiency and better reflect the policy goals and objectives of this order.

(d) A citizen-centered and results-oriented approach will improve service and performance, thereby strengthening compliance with the FOIA, and will help avoid disputes and related litigation.

**SEC. 2. Agency Chief FOIA Officers.**

(a) *Designation.* The head of each agency shall designate within 30 days of the date of this order a senior official of such agency (at the Assistant Secretary or equivalent level), to serve as the Chief FOIA Officer of that agency. The head of the agency shall promptly notify the Director of the Office of Management and Budget (OMB Director) and the Attorney General of such designation and of any changes thereafter in such designation.

(b) *General Duties.* The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency:

- (i) have agency-wide responsibility for efficient and appropriate compliance with the FOIA;
- (ii) monitor FOIA implementation throughout the agency, including through the use of meetings with the

public to the extent deemed appropriate by the agency's Chief FOIA Officer, and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing the FOIA, including the extent to which the agency meets the milestones in the agency's plan under section 3(b) of this order and training and reporting standards established consistent with applicable law and this order;

(iii) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to carry out the policy set forth in section 1 of this order;

(iv) review and report, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing the FOIA; and

(v) facilitate public understanding of the purposes of the FOIA's statutory exemptions by including concise descriptions of the exemptions in both the agency's FOIA handbook issued under section 552(g) of title 5, United States Code, and the agency's annual FOIA report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply.

(c) *FOIA Requester Service Center and FOIA Public Liaisons.* In order to ensure appropriate communication with FOIA requesters:

(i) Each agency shall establish one or more FOIA Requester Service Centers (Center), as appropriate, which shall serve as the first place that a FOIA requester can contact to seek information concerning the status of the person's FOIA request and appropriate information about the agency's FOIA response. The Center shall include appropriate staff to receive and respond to inquiries from FOIA requesters;

(ii) The agency Chief FOIA Officer shall designate one or more agency officials, as appropriate, as FOIA Public Liaisons, who may serve in the Center or who may serve in a separate office. FOIA Public Liaisons shall serve as supervisory officials to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the Center, following an initial response from the Center staff. FOIA Public Liaisons shall seek to ensure a service-oriented response to FOIA requests and FOIA-related inquiries. For example, the FOIA Public Liaison shall assist, as appropriate, in reducing delays, increasing transparency and understanding of the status of requests, and resolving disputes. FOIA Public Liaisons shall report to the agency Chief FOIA Officer on their activities and shall perform their duties consistent with applicable law and agency regulations;

(iii) In addition to the services to FOIA requesters provided by the Center and FOIA Public Liaisons, the agency Chief FOIA Officer shall also consider what other FOIA-related assistance to the public should appropriately be provided by the agency;

(iv) In establishing the Centers and designating FOIA Public Liaisons, the agency shall use, as appropriate, existing agency staff and resources. A Center shall have appropriate staff to receive and respond to inquiries from FOIA requesters;

(v) As determined by the agency Chief FOIA Officer, in consultation with the FOIA Public Liaisons, each agency shall post appropriate information about its Center or Centers on the agency's website, including contact information for its FOIA Public Liaisons. In the case of an agency without a website, the agency shall publish the information on the Firstgov.gov website or, in the case of any agency with neither a website nor the capability to post on the Firstgov.gov website, in the Federal Register; and

(vi) The agency Chief FOIA Officer shall ensure that the agency has in place a method (or methods), including through the use of the Center, to receive and respond promptly and appropriately to inquiries from FOIA requesters about the status of their requests. The Chief FOIA Officer shall also consider, in consultation with the FOIA Public Liaisons, as appropriate, whether

the agency's implementation of other means (such as tracking numbers for requests, or an agency telephone or Internet hotline) would be appropriate for responding to status inquiries.

*SEC. 3. Review, Plan, and Report.*

(a) *Review.* Each agency's Chief FOIA Officer shall conduct a review of the agency's FOIA operations to determine whether agency practices are consistent with the policies set forth in section 1 of this order. In conducting this review, the Chief FOIA Officer shall:

(i) evaluate, with reference to numerical and statistical benchmarks where appropriate, the agency's administration of the FOIA, including the agency's expenditure of resources on FOIA compliance and the extent to which, if any, requests for records have not been responded to within the statutory time limit (backlog);

(ii) review the processes and practices by which the agency assists and informs the public regarding the FOIA process;

(iii) examine the agency's:

(A) use of information technology in responding to FOIA requests, including without limitation the tracking of FOIA requests and communication with requesters;

(B) practices with respect to requests for expedited processing; and

(C) implementation of multi-track processing if used by such agency;

(iv) review the agency's policies and practices relating to the availability of public information through websites and other means, including the use of websites to make available the records described in section 552(a)(2) of title 5, United States Code; and

(v) identify ways to eliminate or reduce its FOIA backlog, consistent with available resources and taking into consideration the volume and complexity of the FOIA requests pending with the agency.

(b) *Plan.*

(i) Each agency's Chief FOIA Officer shall develop, in consultation as appropriate with the staff of the agency (including the FOIA Public Liaisons), the Attorney General, and the OMB Director, an agency-specific plan to ensure that the agency's administration of the FOIA is in accordance with applicable law and the policies set forth in section 1 of this order. The plan, which shall be submitted to the head of the agency for approval, shall address the agency's implementation of the FOIA during fiscal years 2006 and 2007.

(ii) The plan shall include specific activities that the agency will implement to eliminate or reduce the agency's FOIA backlog, including (as applicable) changes that will make the processing of FOIA requests more streamlined and effective, as well as increased reliance on the dissemination of records that can be made available to the public through a website or other means that do not require the public to make a request for the records under the FOIA.

(iii) The plan shall also include activities to increase public awareness of FOIA processing, including as appropriate, expanded use of the agency's Center and its FOIA Public Liaisons.

(iv) The plan shall also include, taking appropriate account of the resources available to the agency and the mission of the agency, concrete milestones, with specific timetables and outcomes to be achieved, by which the head of the agency, after consultation with the OMB Director, shall measure and evaluate the agency's success in the implementation of the plan.

(c) *Agency Reports to the Attorney General and OMB Director.*

(i) The head of each agency shall submit a report, no later than 6 months from the date of this order, to the Attorney General and the OMB Director that summarizes the results of the review under section 3(a) of this order and encloses a copy of the agency's plan under section 3(b) of this order. The agency shall publish a copy of the agency's report on the agency's website or, in the case of an agency without a website, on the Firstgov.gov website, or, in the case of any agency with neither a website nor the capability to publish on the Firstgov.gov website, in the Federal Register.

(ii) The head of each agency shall include in the agency's annual FOIA reports for fiscal years 2006 and 2007 a report on the agency's development and implementation of its plan under section 3(b) of this order and on the agency's performance in meeting the milestones set forth in that plan, consistent with any related guidelines the Attorney General may issue under section 552(e) of title 5, United States Code.

(iii) If the agency does not meet a milestone in its plan, the head of the agency shall:

(A) identify this deficiency in the annual FOIA report to the Attorney General;

(B) explain in the annual report the reasons for the agency's failure to meet the milestone;

(C) outline in the annual report the steps that the agency has already taken, and will be taking, to address the deficiency; and

(D) report this deficiency to the President's Management Council.

*SEC. 4. Attorney General.*

(a) *Report.* The Attorney General, using the reports submitted by the agencies under subsection 3(c)(i) of this order and the information submitted by agencies in their annual FOIA reports for fiscal year 2005, shall submit to the President, no later than 10 months from the date of this order, a report on agency FOIA implementation. The Attorney General shall consult the OMB Director in the preparation of the report and shall include in the report appropriate recommendations on administrative or other agency actions for continued agency dissemination and release of public information. The Attorney General shall thereafter submit two further annual reports, by June 1, 2007, and June 1, 2008, that provide the President with an update on the agencies' implementation of the FOIA and of their plans under section 3(b) of this order.

(b) *Guidance.* The Attorney General shall issue such instructions and guidance to the heads of departments and agencies as may be appropriate to implement sections 3(b) and 3(c) of this order.

*SEC. 5. OMB Director.* The OMB Director may issue such instructions to the heads of agencies as are necessary to implement this order, other than sections 3(b) and 3(c) of this order.

*SEC. 6. Definitions.* As used in this order:

(a) the term "agency" has the same meaning as the term "agency" under section 552(f)(1) of title 5, United States Code; and

(b) the term "record" has the same meaning as the term "record" under section 552(f)(2) of title 5, United States Code.

*SEC. 7. General Provisions.*

(a) The agency reviews under section 3(a) of this order and agency plans under section 3(b) of this order shall be conducted and developed in accordance with applicable law and applicable guidance issued by the President, the Attorney General, and the OMB Director, including the laws and guidance regarding information technology and the dissemination of information.

(b) *This order:*

(i) shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations;

(ii) shall not be construed to impair or otherwise affect the functions of the OMB Director relating to budget, legislative, or administrative proposals; and

(iii) is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

FREEDOM OF INFORMATION ACT

Memorandum of President of the United States, Jan. 21, 2009, 74 F.R. 4683, provided:

Memorandum for the Heads of Executive Departments and Agencies

A democracy requires accountability, and accountability requires transparency. As Justice Louis Brandeis wrote, "sunlight is said to be the best of disinfectants." In our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government. At the heart of that commitment is the idea that accountability is in the interest of the Government and the citizenry alike.

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.

The presumption of disclosure also means that agencies should take affirmative steps to make information public. They should not wait for specific requests from the public. All agencies should use modern technology to inform citizens about what is known and done by their Government. Disclosure should be timely.

I direct the Attorney General to issue new guidelines governing the FOIA to the heads of executive departments and agencies, reaffirming the commitment to accountability and transparency, and to publish such guidelines in the Federal Register. In doing so, the Attorney General should review FOIA reports produced by the agencies under Executive Order 13392 of December 14, 2005. I also direct the Director of the Office of Management and Budget to update guidance to the agencies to increase and improve information dissemination to the public, including through the use of new technologies, and to publish such guidance in the Federal Register.

This memorandum does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

#### § 552a. Records maintained on individuals

(a) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e)<sup>1</sup> of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular as-

signed to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(8) the term "matching program"—

(A) means any computerized comparison of—

(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

(II) recouping payments or delinquent debts under such Federal benefit programs, or

(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records.

(B) but does not include—

(i) matches performed to produce aggregate statistical data without any personal identifiers;

(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 404(e), 464, or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been deter-

<sup>1</sup>See References in Text note below.

## **FREEDOM OF INFORMATION ACT/PRIVACY ACT AND MANDATORY DECLASSIFICATION REVIEW REQUIREMENTS**

*This Attachment provides information and/or requirements associated with this Order as well as information and/or requirements applicable to contracts in which the associated CRD (Attachment 1 to this Order) is inserted.*

1. **FREEDOM OF INFORMATION ACT/PRIVACY ACT REVIEWS.** Classified documents identified as being responsive to a Freedom of Information Act (FOIA) or Privacy Act request must be reviewed to identify the classified information in the document that must be redacted prior to release.
  - a. **Review of Responsive Classified Documents.** Each responsive classified document must be reviewed by a Derivative Classifier or Derivative Declassifier who identifies and brackets each portion of the document, if any, that contains classified information as described in Attachment 8, *Bracketing and Redaction Procedures*, and determines whether the document contains classified information outside of the element's or contractor's purview.
    - (1) **If the First Reviewer Determines the Document Does Not Contain Classified or Potentially Classified Information.**
      - (a) **Field Element or Contractor.** The Classification Officer must conduct a second review and declassify the document. The document is then processed in accordance with appropriate statutes, regulations, and local procedures.
      - (b) **Headquarters Element or Headquarters Element Contractor.** The document must be forwarded to the Office of Classification or the NNSA Program Classification Officer, as appropriate, through the Headquarters Classification Representative if a contractor, for a second review.
    - (2) **If the First Reviewer Determines the Document Contains Classified Information under the Element's or Contractor's Purview.** The document must be forwarded to the Office of Classification for a second review.
    - (3) **If the First Reviewer Determines the Document Contains Classified Information under the Element's or Contractor's Purview and Potentially Classified Information Outside of the Element's or Contractor's Purview.** The document must be forwarded to the Office of Classification for a second review and with the indication that the document may contain classified information under the purview of another DOE field or Headquarters element or contractor or other Government Agency.
    - (4) **If the First Reviewer Determines the Document Does Not Contain Classified Information under the Element's or Contractor's Purview but Contains Potentially Classified Information Outside of the Element's or**

Contractor's Purview. The document must be forwarded to the Office of Classification with the indication that the document does not contain classified information under the element's or contractor's purview but may contain classified information under the purview of another DOE field or Headquarters element or contractor or other Government Agency.

- b. Office of Classification Review and Processing. The Office of Classification:
  - (1) Conducts the second review to validate or modify the brackets identifying the portions of the document containing the classified information or to declassify the document, as required.
  - (2) Coordinates the review of the document with any other DOE field or Headquarters element or contractor or other Government Agency, as appropriate.
  - (3) Coordinates the review with the NNSA Classification Officer, as appropriate.
  - (4) Identifies the appropriate Denying Official and exemption for each portion of the document that was bracketed as a result of the Office of Classification review or any coordinate review. The document is then returned to the field or Headquarters element for identifying unclassified information that is exempt from release (e.g., Export Controlled Information, proprietary information) and processing in accordance with appropriate statutes, regulations, and local procedures.
- c. OpenNet. Once the classified and unclassified information exempt from public release is redacted, the document must be entered into the OpenNet data base by the responsible program.

2. MANDATORY DECLASSIFICATION REVIEW. Each classified document identified as being responsive to a mandatory declassification review request under Executive Order 13526 or 10 CFR § 1045.42 must be reviewed to identify the classified information and unclassified information that is exempt from release in the document that must be redacted prior to release.
  - a. Identification of Responsive Documents.
    - (1) The Office of Classification must identify field and Headquarters elements and contractors that potentially have documents responsive to the request and must forward the request to those elements or contractors.
    - (2) Each element or contractor must search for and identify classified documents in its possession that are responsive to the request and must notify the Office of Classification of the results of the search within 14 days of receiving the request.

b. Classification Review of Responsive Documents. Each responsive classified document must be reviewed by a Derivative Classifier or Derivative Declassifier who identifies and brackets each portion of the document, if any, that contains classified information as described in Attachment 8, *Bracketing and Redaction Procedures*, and determines whether the document contains classified information outside of the element's or contractor's purview.

(1) If the First Reviewer Determines the Document Does Not Contain Classified or Potentially Classified Information.

(a) Field Element or Contractor. The Classification Officer must conduct a second review and declassify the document. The document is then forwarded to the Office of Classification, through the Field Element Classification Officer if a contractor.

(b) Headquarters Element or Headquarters Element Contractor. The document must be forwarded to the Office of Classification or the NNSA Program Classification Officer, as appropriate, through the Headquarters Classification Representative if a contractor, for a second review.

(2) If the First Reviewer Determines the Document Contains Classified Information under the Element's or Contractor's Purview. The document must be forwarded to the Office of Classification for a second review of the classified information.

(3) If the First Reviewer Determines the Document Contains Classified Information under the Element's or Contractor's Purview and Potentially Classified Information Outside of the Element's or Contractor's Purview. The document must be forwarded to the Office of Classification for a second review and with the indication that the document may contain classified information under the purview of another DOE field or Headquarters element or contractor or other Government Agency.

(4) If the First Reviewer Determines the Document Does Not Contain Classified Information under the Element's or Contractor's Purview, but Contains Potentially Classified Information Outside of the Element's or Contractor's Purview. The document must be forwarded to the Office of Classification with the indication that the document does not contain classified information under the element's or contractor's purview but may contain classified information under the purview of another DOE field or Headquarters element or contractor or other Government Agency.

c. Review for Unclassified Information That is Exempt from Release in Responsive Documents. Prior to forwarding responsive documents to the Office of Classification or the NNSA Program Classification Officer, as appropriate, the unclassified information that is exempt from release must be identified along

with any appropriate exemption categories and Denying Officials in accordance with statutes, regulations, DOE Orders, and local procedures. The response must also confirm that the document is cleared for public release when the classified and unclassified information that is exempt from release (e.g., Export Controlled Information, proprietary information) is redacted.

d. Office of Classification Review and Processing. The Office of Classification:

- (1) Conducts the second review to validate or modify the brackets identifying the portions of the document containing the classified information or to declassify the document, as required.
- (2) Coordinates the review of the document with any other DOE field or Headquarters element or contractor or other Government agency, as appropriate.
- (3) Coordinates the review with the NNSA Classification Officer, as appropriate.
- (4) Identifies the appropriate Denying Official and exemption for each bracketed portion of the document.
- (5) Prepares a redacted version of the document, removing all portions of the document containing classified information and unclassified information that is exempt from release (e.g., Export Controlled Information, proprietary information)
- (6) Responds to the requester.
- (7) Enters the redacted document into the OpenNet data base.



Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Report Date:  
Time:

09/30/2019  
9:07 AM

**Requests Report**  
Original closed date between 02/15/2017 and 09/30/2019

Action Office	Requested Date	Request Type	Request ID	Requester Category	Request Description	Exemption Cited	Closed Date	Request Status
<b>Reason (FOIA): -</b>								
SRO	11/02/2016	FOIA	SRO-2017-00149-F	Other-Pub Int Group	Copies of Savannah River Site 2015 and 2016 Nuclear Materials Management Plan referenced in the Department of Energy's Inspector General Audit Report OAI-16-14 H-Canyon Processing at the Savannah River Site.		04/06/2017	Closed
SRO	03/14/2017	FOIA	SRO-2017-00205-F	News Media	Mr. Thomas Gardiner is requesting information pertaining to documents filed as part of what is known as the SRNS employee concerns program between April 1, 2016 and August 1, 2016 and email correspondence between SRNS and SRNL Executives Mike Wamstad and David Eyler between April 1, 2016 and August 1, 2016.		04/10/2017	Closed
SRO	03/03/2016	FOIA	SRO-2016-00936-F	Other-Individual	1) All documents related to Mallinckrodt Chemical Works in St. Louis, Missouri; related to the St. Louis Airport Site (SLAPS) in St. Louis, Missouri; related to the Latty Avenues Site, in Berkeley, Missouri; related to the West Lake Landfill in Bridgeton, Missouri; and all documents, records, transcripts, contracts, receipts, shipments of material from Hanford and Savannah River to Mallinckrodt Chemical Works in St Louis Missouri between 1945-1960		04/10/2017	Closed
SRO	03/13/2017	FOIA	SRO-2017-00730-F	Other-Pub Int Group	All documents and communications regarding a shipment or shipments from the DOE's Savannah River Site to the Idaho National Laboratory covered in ACCEPTANCE OF HIGHWAY ROUTE RE-APPROVAL APPLICATION (NRC ROUTE NO. 195) ROUTE: THE DEPARTMENT OF ENERGY SAVANNAH RIVER SITE, AIKEN, SOUTH CAROLINA, TO IDAHO NATIONAL LABORATORY, SCOVILLE, IDAHO, DOCKET NUMBER: 070-07011 <a href="https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML1 7055C562">https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML1 7055C562</a>		04/28/2017	Closed
SRO	02/06/2017	FOIA	SRO-2017-00953-F	Comm-Business	A copy of an accident report taken by the Centerra SRS public safety office with a report # 16-112VA.		06/13/2017	Closed
SRO	11/29/2016	FOIA	SRO-2017-00231-F	Other-Pub Int Group	Mr. Tom Clements is requesting the following categories related to the Germany on Reprocessing Graphite Spent Fuel at SRS (1) any MOA, MOU, WFO agreement or any other form of agreement or contract between any Germany entity, including the Forschung Zentrum Juelich (FZJ), and the Savannah River Site, Savannah River Nuclear Solutions and/or Savannah River National Laboratory during Fiscal Year 2016 and Fiscal Year 2017 concerning work and associated payment involving research and development of storage, reprocessing and disposal of SRS of German graphite spent fuel; and (2) any technical reports or feasibility studies delivered in Fiscal Year 2016 or Fiscal Year 2017 by SRNL or SRNS or any other contractor to DOE about technical aspects of storage, reprocessing and disposal of the German graphite fuel at SRS	(b)(5)	08/28/2017	Closed
SRO	06/29/2017	FOIA	SRO-2017-01377-F	Other-Law Firm	Berkers Crane Robinson Seal is requesting information pertaining to any and all records or documents related to construction projects at the Elk Hills Oil Field in Kern County, California in the 1970's. This request includes, but is not limited to, any and all facility buildings plan documents, architectural plans, photographs, specifications, drawings, material lists, blueprints, change orders, prime or general contracts, or subcontracts. Any and all records or documents related to the production of oil at Elk Hills Oil Field in Kern County, California during the 1970's. This request includes, but is not limited to, any and all facility building plan documents, architectural plans, photographs, specifications, drawings, material lists, blueprints, change orders, prime or general contracts, or subcontracts. Any and all documents which		09/18/2017	Closed

					identify the name of any entity involved in any construction or in the production of oil at the Elk Hills Oil Field in Kern County, California during the 1970's. This request includes, but is not limited to, to any materials, or equipment suppliers whether wholesale suppliers, product manufacturers, and /or shipping/ freight companies. Any and all documents which identify the names and /or types of any construction materials used in construction of the Elk Hills Oil Field in Kern County, California during the 1970's. This request includes, but is not limited to, any and all exterior or interior wall finishing materials/products (including but not limited to stucco, drywall, etc.....), any and all fireproofing materials, any and all heating/ venting/ air-conditioning (HVAC) materials, pipe and pipe insulation materials, and electrical materials. Any and all documents which identify the names and /or types of materials used in the production of Oil at the Elk Oil Field in Kern County, California during the 1970's. This request included, but is not limited to, any and all equipment, drilling, muds, acids, solvents, pipe and pipe insulation materials, gaskets, pumps, packing, and valves. Any and all documents related to any asbestos abatement involving any of the work done at Elk Hills Oil Field in Kern County, California.			
SRO	09/15/2017	FOIA	SRO-2017-01794-F	Other-Individual	A copy of correspondence from Congresswoman Diane Black or her staff and the response to the correspondence. Please search for documents from January 2011 through present; A copy of all correspondence from the majority staff of the House Budget Committee from January 1, 2017 through present; Requestor believes the correspondence are most likely to be held by the Office of Congressional Affairs, Office of Legislative Affairs, or the office of the Executive Secretariat and likely tracked within a correspondence management system. He is specifically looking for correspondence regarding policy, legislation, or regulations, recommendations for executive branch positions or appointments, or support or opposition to federal funding for programs, projects, or companies.	09/18/2017	Closed	
SRO	04/06/2017	FOIA	SRO-2017-00876-F	Other-Individual	Ms. Joan Gaunt is requesting DOE records for James S. Stuthert.	09/18/2017	Closed	
SRO	11/14/2016	FOIA	SRO-2017-00202-F	Other-Pub Int Group	All docs and reports, and attachments, pertaining to drone overflight of SRS during 2016; all photos taken of any drones over SRS during 2016; and all docs, reports and analyses about the legality of drone overflight over SRS	(b)(6);(b)(7)(F)	09/28/2017	Closed
SRO	08/30/2017	FOIA	SRO-2017-01691-F	Comm-Business	Department of Energy (DOE). December 2004. EM Cleanup Project Lifecycle Baseline External Independent Review Corrective Action Plan.		09/28/2017	Closed
SRO	07/03/2017	FOIA	SRO-2017-01547-F	Other-Law Firm	The Law Office of Darrell Thomas Johnson, Jr. LLC is requesting Freedom of Information Act Request on any, and all documents regarding any and all internal guidelines and procedures for creating Industrial Hygiene summaries for individual workers and former workers at the site and for including potential exposures for those workers in their industrial hygiene summaries.		09/28/2017	Closed
SRO	04/24/2017	FOIA	SRO-2017-01448-F	Other-Law Firm	The Law Office of Darrell Thomas Johnson, Jr., is requesting information on any and all documents regarding an incident report and memoranda regarding a contamination incident in K reactor in November 1970. Any, and all incident reports and memoranda relating to a leak of radioactive material in the area of C Reactor on or about May 10, 1965. Any, and all reports and memoranda from August 14, 1985 by G.C. Ridgely.		09/28/2017	Closed
SRO	04/29/2017	FOIA	SRO-2017-01814-F	News Media	Copies of all DOE classification briefing correspondence, including DOE emails, calendar entries, memos and all other correspondence from classification officials charged with implementing WPN-136. This is included but not limited to correspondence related to the provision of "special briefings" about skirting the issue of Israel's nuclear weapons. WPN-136 is a classification bulletin titled "Guidance of Release of Information Relating to the Potential for an Israel Nuclear Capability."		10/23/2017	Closed
SRO	08/03/2017	FOIA	SRO-2018-00036-F	Other-Law Firm	All documents related to reviews of the design for a tritium extraction facility at the Savannah River site under a Congressional request in or around 1998, from the U.S. Department of Energy's ("DOE") National Energy Technology Laboratory and any and all predecessor agencies (including, but not limited to, the Federal Energy Technology Center and the National Energy Technology Center). Documents requested include, but		12/07/2017	Closed

				are not limited to: 1. Any and all DOE contract(s) awarded to K&M Engineering & Consulting Co. (Washington, D.C.) (n/k/a K&M Advisors) in connection with the DOE tritium extraction process for meeting nuclear armaments production under START II guidelines, in particular, contracts bearing code numbers 98-D-125, 98-D-126, and 98-D-453; 2. Copies of any and all nondisclosure agreements that contractors and subcontractors signed before being permitted to work on the projects bearing code numbers 98-D-125, 98-D-126, and 98-D-453, in particular, any signed by Nicholas P. Cheremisinoff; 3. Information related to any and all security clearances issued in connection with the projects bearing code numbers 98-D-125, 98-D-126, and 98-D-453, in particular, any security clearance(s) issued to Nicholas P. Cheremisinoff, 4. Any and all Technology Assessments, Environmental Impact Statements, and Congressional reports related to the DOE tritium extraction process for meeting nuclear armaments production under START II guidelines for the Department of Energy in or around January 1998, in particular, any authored in whole or in part by Nicholas P. Cheremisinoff.		
SRO	11/20/2017	FOIA	SRO-2018-00280-F	Other-Individual	Ms. Talbert-Burt is requesting a copy of the interview questions asked for the Lead Staff Accountant (GS-14) position in Aiken, SC. The opening and closing dates were 09/20/2017 to 10/03/2017.	01/17/2018 Closed
SRO	12/19/2017	FOIA	SRO-2018-00445-F	Other-Pub Int Group	Mr. Tom Clements, Director of Savannah River Site Watch, is requesting a copy of: (1) All documents and attachments- including emails, memos, and written plans- related to the receipt at U.S. Department of Energy sites, including Savannah River Site, of nuclear weapons and Special nuclear Material removed from North Korea; and (2) All documents related to storage and disposition at U.S. Department of Energy Sites, including Savannah River Site, of plutonium and/or highly enriched uranium (HEU) received from North Korea, either in raw form or in the form of plutonium pits or HEU components removed from North Korean nuclear weapons or its weapons programs.	01/17/2018 Closed
SRO	12/06/2017	FOIA	SRO-2018-00347-F	Other-Individual	Mr. Marty George is requesting a copy of correspondence from Congressman Michael Grimm. He believes the correspondence are most likely to be held by your Office of Congressional Affairs, Office of Legislative Affairs, or the office of the Executive Secretariat and likely tracked within a correspondence management system. He is specifically looking for correspondence regarding policy, legislation, or regulations, recommendations for executive branch positions or appointments, or support or opposition to federal funding for programs, projects, or companies. He is not requesting documents related to Congressional casework. (Date Range for Record Search: From 01/03/2013 To 01/05/2015)	01/17/2018 Closed
SRO	01/18/2018	FOIA	SRO-2018-00537-F	Other-Individual	Ms. Lorie Talbert-Burt is requesting a copy of the following: Position Descriptions for: Accountant (GS-13) - position previously vacated by Shirley Williams; Lead Staff Accountant (GS-14) - position currently for Shirley Williams.	01/29/2018 Closed
SRO	12/22/2017	FOIA	SRO-2018-00439-F	Other-Law Firm	Mr. Joshua Fester is requesting any requests for information by Site Exposure Matrix Contractor Paragon Technical Services, sent to Savannah River Site in the last five (5) years.	02/05/2018 Closed
SRO	02/02/2018	FOIA	SRO-2018-00659-F	Other-Pub Int Group	Mr. Clements is requesting a copy of the Environmental Management Operations (EMO) System plan for SRS and any attachments to the document.	02/27/2018 Closed
SRO	02/12/2018	FOIA	SRO-2018-00725-F	News Media	1. All requests for proposals submitted by federal prime contractor G4S SECURE SOLUTIONS (USA) INC, (DUNS Number: 001903723), to the United States Department of Energy from January 1, 2008 to February 12, 2018, along with all supplemental documents. Please note the contractor's former name is WACKENHUT CORP. 2. All approved G4S/WACKENHUT contracts awarded in that same time period.	04/03/2018 Closed
SRO	02/16/2018	FOIA	SRO-2018-00702-F	Other-Pub Int Group	The Nuclear Materials System Plan - Volumes 1 and 2 and any attachments.	04/05/2018 Closed
SRO	04/03/2018	FOIA	SRO-2018-00894-F	Other-Pub Int Group	Mr. Kyle Deming is requesting a copy of WSRC-RP-2007-4032: "RCRA Facility Investigation/Remedial Investigation (RFI/RI) with Baseline Risk Assessment and Corrective Measures Study/Feasibility Study (CMS/FS) for P-Area Operable Unit."	04/12/2018 Closed
SRO	04/16/2018	FOIA	SRO-2018-00956-F	Other-Law Firm	On behalf of Henry Bradley, Mr. Chris Johnson is requesting a copy of all documents that identify the	05/23/2018 Closed

					owner of and the entity responsible for maintenance of Trailer #0152, located at the Savannah River Site's Portable Equipment Commodity Management Center (PECMC) for the year 2015. Specifically this request relates to the claim of Henry Bradley for injuries he sustained on November 19, 2015 while unloading the subject trailer.			
SRO	05/10/2018	FOIA	SRO-2018-01082-F	Other-Individual	Mr. Jibri Johnson is requesting the status of his pending security clearance application status and the status of his investigation.		05/23/2018	Closed
SRO	03/08/2018	FOIA	SRO-2018-00795-F	Other-Pub Int Group	Mr. Tom Clements is requesting a copy of the SRNL report "Characterization of Concrete Exposed to the H-Canyon Exhaust" and any attachments or cover document.		07/05/2018	Closed
SRO	01/01/2018	FOIA	SRO-2018-00483-F	Other-Pub Int Group	Mr. Tom Clements is requesting a copy of the SRS 2017 Nuclear Materials Management Plan and any attachments to it.		07/19/2018	Closed
SRO	07/24/2018	FOIA	SRO-2018-01397-F	Other-Law Firm	Mr. John M. Brown, P.C. is requesting copies of the following documents pertaining to Mr. Kenneth Coble: (1) The process and/or procedure used to revoke Mr. Coble's badge; (2) Any and all investigative reports concerning the removal of Mr. Coble's badge at SRS by the Department of Energy; and (3) The entire investigative file concerning the revocation of Mr. Coble's badge at SRS by the Department of Energy.	(b)(6)	08/20/2018	Closed
SRO	08/10/2018	FOIA	SRO-2018-01475-F	Other-Pub Int Group	Mr. Tom Clements is requesting copies of (1) Any "work for others" agreement or any other form of agreement(s), including any "memorandum of understanding" or contract between Germany [Julicher Entsorgungsgesellschaft fur Nuklearanlagen (JEN) - located at the Forschungszentrum Juelich (FZJ)] and the Savannah River Site, Savannah River Nuclear Solutions and/or the Savannah River National Laboratory concerning payment of approximately \$1.9 million (or any other amount) involving research and development at SRS of processing and disposal of German graphite spent fuel during Fiscal Year 2018; and (2) Any reports from any SRS entity provided to Germany under the requested work for other agreement.	(b)(4);(b)(5)	08/28/2018	Closed
SRO	08/10/2018	FOIA	SRO-2018-01474-F	Other-Pub Int Group	Mr. Tom Clements is requesting a copy of the SRS 2018 Nuclear Materials Management Plan and any attachments, memos or letters attached to or accompanying the plan.		09/11/2018	Closed
SRO	08/27/2018	FOIA	SRO-2018-01529-F	Comm-Business	Ms. Rose Santos of FOIA Group, Inc. is requesting a copy of the following documents identified to DEAC0908SR22470 awarded to Savannah River Nuclear Solutions LLC (a Fluor led company) for Savannah River Nuclear Site, Management and Operations contract: The original RFP with all amendments, attachments, and evaluation criteria factors.		09/13/2018	Closed
SRO	09/10/2018	FOIA	SRO-2018-01590-F	Other-Individual	Ms. Lorie Talbert-Burt is requesting: (1) copies of current PDs for Lead Staff Accountant, GS-0510-14 and Lead System Accountant, GS-0510-14 and dates of PDs; (2) copies of previous PDs for Lead Staff Accountant, GS-0510-14 and Lead System Accountant, GS-0510-14 and dates of PDs; (3) copies of job announcements for Lead Staff Accountant, GS-0510-14 and Lead System Accountant, GS-0510-14; and (4) announcements advertised between 2017 and 2018.		09/13/2018	Closed
SRO	05/25/2018	FOIA	SRO-2018-01275-F	Other-Pub Int Group	A copy of the unclassified version of any security tests or reviews conducted at the Savannah River Site, including Protective Force Performance Tests, performed since January 1, 2016. The responsive request should include any force-on-force results from the security reviews conducted.	(b)(7)(F); (b)(3):42 U.S.C. 2162	09/26/2018	Closed
SRO	09/11/2018	FOIA	SRO-2018-01604-F	Comm-Business	Copies of any documents indicating the presence of asbestos-containing insulation within the steam lines of the central plant of the Savannah River Site in Savannah River Site in South Carolina, from 1977 to 1983, contained in the records of the Department of Energy.		09/26/2018	Closed
SRO	09/19/2018	FOIA	SRO-2018-01643-F	Other-Individual	Ms. Rebecca Matsko is requesting access to a document describing the process of how DOE, and specifically the Savannah River National Laboratory, cleans contaminated groundwater and soil. Additionally, she is requesting access to a visual graph showing the contaminated groundwater sites from 1990 to 2018.		11/14/2018	Closed
SRO	10/31/2018	FOIA	SRO-2019-00168-F	Other-Individual	Ms. Ann Brown of Center for Biological Diversity is requesting: From October 1, 2015 to the date DOE conducts this search, every record mentioning or including DOE's implementation of Section 7(a)(1) of the Endangered Species Act, 16 U.S.C. §§ 1531-1544 ("ESA").		01/22/2019	Closed
SRO	11/05/2018	FOIA					02/19/2019	Closed

		SRO-2019-00167-F	Other-Pub Int Group	Mr. Tom Clements is requesting copies of all briefing documents, including presentations and handouts, by DOE at "SRS H-Canyon Exhaust Tunnel" meeting on November 1, 2018, with the Defense Nuclear Facilities Safety Board. This request covers all documents related to the items on the attached agenda, including: Introductions, concrete analysis, strength of competent concrete, treatment of altered concrete strength, implementation of altered concrete strength in modeling, and questions and answers.	(b)(5);(b)(7)(E)			
SRO	01/03/2019	FOIA	SRO-2019-00349-F	Other-Pub Int Group	As it applies to construction of the Mixed Oxide Fuel Fabrication at the Department of Energy's Savannah River Site, Mr. Tom Clements is requesting copies of any "plan(s)", including timelines, prepared by Savannah River Nuclear Solutions or other DOE contractor concerning the termination, transition, turnover and/or repurposing of the now terminated Mixed Oxide Fuel Fabrication Facility and any attachments to the above document(s) including cover letters and statement of work.		01/22/2019	Closed
SRO	11/12/2018	FOIA	SRO-2019-00216-F	Other-Law Firm	On behalf of Forest Ray Ford, Mr. Warren Paul Johnson has submitted the attached FOIA request for copies of any and all documents on self-assessment, which was conducted by WSRC prior to and referenced in the Tiger Team Compliance Assessment.		02/19/2019	Closed
SRO	01/15/2019	FOIA	SRO-2019-00460-F	Education	Mr. Martin Pheiffer is requesting copies of any and all reports and planning documents discussing efforts to assess or model the climate impacts of nuclear war and the results of such efforts between January 1, 1982 and January 1, 2019. (Date Range for Record Search: From 1/1/1982 To 1/1/2019)		04/08/2019	Closed
SRO	03/18/2019	FOIA	SRO-2019-00667-F	Other-Pub Int Group	Mr. Tom Clements is requesting copies of: (1) Any modification to the original Work for Others (WFO) agreement between DOE/Savannah River Nuclear Solutions and Jülicher Entsorgungsgesellschaft für Nuklearanlagen (JEN) - located at the Forschungszentrum Jülich (FZJ) in Germany - and the Savannah River Site, Savannah River Nuclear Solutions, and/or the Savannah River National Laboratory after March of calendar year 2018 or at any point in calendar year 2019. Modification Number 4 to the Work for Others agreement terminated on February 28, 2019, so this request covers any "modification" subsequent to Modification Number 4. The requested modification(s) may be called Modification Number 5 (and higher); (2) Any documentation on import of irradiated or unirradiated graphite fuel "pebbles" from Germany to SRS. (At the time of this filing, it is believed that JEN obtained initial permission to export 33 fuel pebbles but final permission had not been obtained from Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA) - the Office of Economics and Export Control.); and (3) Any reports from any SRS entity has provided to Germany under the most recent modified Work for Others agreement.		04/17/2019	Closed
SRO	01/17/2019	FOIA	SRO-2019-00382-F	Other-Pub Int Group	As it applies to work done under the SRS-Germany Work for Others agreement, Mr. Tom Clements is requesting copies of any reports or documents prepared in the Fiscal Years 2017-2019 by DOE, SRNS, or SRNL under terms of the SRS-Germany Work for Others agreement, whether delivered to German entities or not and any attachments to the listed documents, including cover letters and addendums. (Date Range for Record Search: From 10/1/2016 To 1/24/2019)	(b)(4);(b)(5)	04/24/2019	Closed
SRO	02/20/2019	FOIA	SRO-2019-00606-F	Other-Pub Int Group	Ms. Ramona McGee, staff attorney from Southern Environmental Law Center is requesting: All documents related or existing or planned habitat management plans or other management agreements for red-cockaded woodpeckers; All documents regarding population numbers of red-cockaded woodpeckers, including information about mortality events, injuries, nests, active clusters and inactive clusters; All documents regarding the installation and maintenance of artificial cavities for red-cockaded woodpeckers; All documents regarding impacts to red-cockaded woodpeckers from severe storm events, such as but not limited to hurricanes; All communications between DOE and the U.S. Fish and Wildlife Service, U.S. Forest Service, National Park Service, or Department of Defense, including any of its subsidiaries, regarding red-cockaded woodpeckers; and All communications between DOE and state wildlife agencies regarding red-cockaded woodpeckers.		05/28/2019	Closed
SRO	03/29/2019	FOIA					06/24/2019	Closed

			SRO-2019-00689-F	Comm-Business	Ms. Joni Ketter of NTEU is requesting a listing of all non-supervisory employees assigned to the Savannah River Site, including those who may be detailed to other locations. Please include in the information provided their names, position (series and title), pay information, notation of professional/non-professional status, employment status (full-time, permanent, part-time, seasonal, etc.), organizational components, geographic location and duty station, e-mail address and telephone number.			
SRO	07/08/2019	FOIA	SRO-2019-01170-F	Other-Law Firm	Mr. Jonathan Gasser submitted the attached FOIA request for the following: On July 14, 2018, there was a boating accident on the South Carolina side of Savannah River in Allendale County, South Carolina. The accident involved a boat, operated by one individual, hitting an unknown object in the water and veering off course and striking two people on a sandbar. The incident occurred near Dick's Look-out and Poke Patch Bar (Mile Marker 105) at GPS coordinates N32 50.63 W 81 27.26. The time the incident occurred was estimated at approximately 17:30 p.m. E.S.T. Any satellite imaging of the location site between 17:00 p.m. and 18:00 E.S.T. on July 14, 2018.		08/06/2019	Closed
SRO	08/08/2019	FOIA	SRO-2019-01235-F	Other-Law Firm	Mr. James Bradshaw of Gallivan, White & Boyd, P.C. is submitted the attached FOIA request for copies of any and all documents, reports, photographs, videotapes, notes, diagrams, recorded statements, and correspondence relating to the derailment and/or investigation of the derailment of a CSX Transportation, Inc. train that occurred on January 27, 2015 in Martin, South Carolina, including but not limited to, all air monitoring data and reports, all environmental testing data and reports, all data and reports from any other testing performed at or near the site of the derailment, <u>all investigative reports, and all incident reports.</u>		09/12/2019	Closed
SRO	08/30/2019	FOIA	SRO-2019-01341-F	Other-Pub Int Group	Mr. Tom Clements submitted the attached FOIA request for copies of: (1) Any modification to the original Work for Others (WFO) agreement between DOE/Savannah River Nuclear Solutions and Jülicher Entsorgungsgesellschaft für Nuklearanlagen (JEN) - located at the Forschungszentrum Jülich (FZJ) in Germany - and the Savannah River Site, Savannah River Nuclear Solutions, and/or the Savannah River National Laboratory after March of calendar year 2018 or at any point in calendar year 2019. Modification Number 5 to the work for others agreement terminated on August 30, 2019, so this request covers any "modification" or new agreement subsequent to Modification Number 5. The requested modification(s) may be called Modification Number 6 (and higher); (2) Any documentation on import of irradiated or unirradiated graphite fuel "pebbles" from Germany to SRS. (At the time of this filing, it is believed that JEN obtained initial permission to export 33 fuel pebbles, but final permission had not been obtained from Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA) - the Office of Economics and Export Control.); and (3) Any reports from any SRS entity has provided to Germany under the most recent modified Work for Others agreement.	(b)(5)	09/16/2019	Closed

**Total No of Requests for - : 38**

**Total No of Requests : 48**